

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

EDDIE JOSEPH BROWN, #87813	§ § § § § § § § § §	PLAINTIFF
v.		Civil No. 1:15cv132-HSO-JCG
RAYMOND BYRD, <i>et al.</i>		DEFENDANTS

**ORDER DISMISSING PLAINTIFF'S
CLAIMS WITHOUT PREJUDICE**

BEFORE THE COURT is Plaintiff Eddie Joseph Brown's Notice of Voluntary Dismissal [23] entered in this civil action on October 30, 2015. For the reasons stated below, the Court will dismiss Plaintiff's claims in this cause without prejudice.

Plaintiff Eddie Joseph Brown ("Plaintiff") filed his Complaint [1] pursuant to 42 U.S.C. § 1983 on April 22, 2015, naming as Defendants Raymond Byrd and Marshal Turner. On April 23, 2015, the Court entered an Order [3] directing, in relevant part, that if Plaintiff wants "to dismiss this case, then the plaintiff shall sign the Notice of Voluntary Dismissal (Form PSP-4) and return it to the Clerk of Court within thirty (30) days from the date of this Order." Order [3] at 1. Plaintiff did not do so within 30 days of that Order, and Defendants answered [17] Plaintiff's Complaint on October 6, 2015. Plaintiff has now executed the Notice of Voluntary Dismissal and filed it with the Clerk of Court. Plaintiff seeks to voluntarily dismiss

this cause without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1). Notice [23] at 1.

Because Defendants have answered Plaintiff's Complaint, Plaintiff cannot voluntarily dismiss his claims pursuant to Rule 41(a)(1) without either all parties who have appeared signing a stipulation of dismissal or the Court entering an appropriate Order on terms it considers proper. Fed. R. Civ. P. 41(a)(1)(A), (a)(2). Based upon Plaintiff's request to voluntarily dismiss this civil action, the Court will dismiss Plaintiff's claims without prejudice in accordance with his request. The Court considers these terms proper in light of the procedural posture of this case. See Fed. R. Civ. P. 41(a)(2).

IT IS, THEREFORE, ORDERED AND ADJUDGED that, for the reasons stated herein, Plaintiff Eddie Joseph Brown's claims against Defendants are **DISMISSED WITHOUT PREJUDICE**. A Final Judgment in accordance with this Order will be entered.

SO ORDERED AND ADJUDGED, this the 2nd day of November, 2015.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE